

105TH CONGRESS
2D SESSION

H. R. 4681

To require a 33 percent reduction in funds provided to a State under title I of the Omnibus Crime Control and Safe Streets Act of 1968 unless law enforcement officers are afforded due process in a case which could lead to dismissal, demotion, suspension, or transfer of a law enforcement officer.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 1998

Mr. BARR of Georgia (for himself and Mr. BISHOP) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require a 33 percent reduction in funds provided to a State under title I of the Omnibus Crime Control and Safe Streets Act of 1968 unless law enforcement officers are afforded due process in a case which could lead to dismissal, demotion, suspension, or transfer of a law enforcement officer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Law Enforcement Offi-
5 cers Due Process Act of 1998”.

1 **SEC. 2. PROTECTION FOR LAW ENFORCEMENT OFFICERS.**

2 A grant made under title I of the Omnibus Crime
3 Control and Safe Streets Act of 1968 that would otherwise
4 be made available to a State shall be reduced by 33 per-
5 cent unless a law enforcement officer who is under inves-
6 tigation by an employing agency involving matters which
7 could reasonably lead to dismissal, demotion, suspension,
8 or transfer for punitive reasons, (of a law enforcement of-
9 ficer) is provided administrative recourse as follows:

10 (1) The employing agency has written proce-
11 dures to ensure that any law enforcement officer is
12 afforded access to any existing administrative proc-
13 ess established by the employing agency prior to the
14 imposition of any disciplinary action against the offi-
15 cer.

16 (2) The procedures used under paragraph (1)
17 shall include, the right of a law enforcement officer
18 under investigation—

19 (A) to a hearing before a fair and impar-
20 tial board or hearing officer;

21 (B) to be represented by an attorney or
22 other officer at the expense of such officer;

23 (C) to confront any witnesses testifying
24 against such officer; and

25 (D) to record all meetings in which such
26 officer attends.

1 **SEC. 3. EXISTING PROCEDURES.**

2 An employing agency that has in effect an established
3 civil service system, agency review board, civilian com-
4 plaint board or personnel board, which meets or exceeds
5 the minimum standards of section 2, or other means of
6 providing due process, is exempt from the requirements
7 of this Act.

8 **SEC. 4. IMMEDIATE SUSPENSION.**

9 (a) IN GENERAL.—Nothing in this Act shall prevent
10 the immediate suspension with pay of any law enforcement
11 officer—

12 (1) whose continued presence on the job is con-
13 sidered to be a substantial and immediate threat to
14 the welfare of the employing agency or the public;

15 (2) who refuses to obey a direct order issued in
16 conformance with the agency's written and dissemi-
17 nated rules and regulations; or

18 (3) who is accused of committing an illegal act.

19 (b) COMPLAINT REVIEW BOARD HEARING.—In a
20 case that requires the immediate suspension of an officer,
21 the officer shall be afforded the rights provided for under
22 this Act, except that an officer's request to be heard by
23 a complaint review board shall be made after the imposi-
24 tion of such a suspension.

25 **SEC. 5. DEFINITIONS.**

26 For the purposes of this Act—

1 (1) the term “employing agency” means any
2 State or unit of local government within the State
3 that employs law enforcement officers; and

4 (2) the term “law enforcement officer” means
5 all officers with the powers of arrest as defined by
6 the laws of each State and required to be certified
7 under the laws of such State.

8 **SEC. 6. EFFECTIVE DATE.**

9 This Act shall take effect beginning on October 1 of
10 the first fiscal year beginning after the last day of the
11 2-year period beginning on the date of the enactment of
12 this Act.

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